

Statement from Newcastle builder Denis Martin

Why did you stop work on the house project for Peter McArthur and Elizabeth Hearne?

We stopped work because the Dept. of Fair Trading cancelled the builder's licence held by Prestige Design Joinery. Therefore, we couldn't legally do any further work on the site.

What stage of the building did you reach?

We had completed all the preliminary work required to prepare for construction, which was the first stage. We had completed the garage slab, concrete footings and metal piers, to support the floor and frame, which was the second stage. We had started doing the timber flooring and had ordered frames and roof trusses, which was part of the third stage.

Peter and Elizabeth say they paid you \$99,000. Have you done that amount of work?

Yes. This was made up of two separate payments for stages one and two, which were completed. Work had begun on stage three.

Why was your license cancelled?

- My own builder's licence was cancelled due to me putting a separate company into voluntary liquidation.
- I was not the "nominated (licenced builder) supervisor" for Prestige Design Joinery, and hadn't been so, for approximately 2 ½ years.

Did you have any idea Prestige Design Joinery's license was due to be cancelled when you started the work?

- Absolutely not. The Dept. of Fair Trading cancelled the Joinery's licence on 13 February 2019.
The Joinery had not received a Notice of Intent to Cancel, which we understood should have happened. This notice would have given the Joinery 14 days to respond prior to the cancellation.
- If the Dept's intent was to cancel on 13 February, that means the Joinery should have received the Notice on 30 January. On 30 January, the only work that had been carried out on Peter & Elizabeth's site was the erection of a safety fence. No actual construction had commenced. Had the Joinery received the Notice, no further work would have been carried out on the site.
- On the afternoon of 25 February, we received a phone call from Elizabeth, saying that Peter had gone onto the Dept. of Fair Trading's builder's licence check website and saw that the Joinery's licence had been cancelled. We don't know what prompted him to look at that site.
- This phone call from Elizabeth was the first time we had any indication of what had happened to the Joinery's licence. The following morning, 26 February, we had legal representatives start to investigate the circumstances. The Dept. of Fair Trading told our legal representatives that they had sent an email on 13 February to the company in liquidation to advise that the licence was cancelled. They said the email bounced

back and they did nothing further to notify any party. We believe this email should have been sent to Prestige Design Joinery, as it was a different and separate company.

- Later on, 27 February, the Joinery received the cancellation letter from the Dept. of Fair Trading, via post. This letter was dated 13 February. We do not know when it was actually posted. The letter gave the Joinery ten days from the date of the letter to respond. The letter arrived thirteen days later.
- The Joinery started a campaign through both legal channels and the Minister's Office, to try and get the cancellation suspended until we at least had our 14 days to respond. We were very transparent with Peter and Elizabeth throughout this period. The Dept. of Fair Trading stated that the Joinery would have to re-apply for its licence.

- **Did you offer the couple another option, or a solution to get their house built? What was their response?**

- Peter and Elizabeth's job, was one of eighteen contracted jobs that were at various stages of construction. All these jobs by law had to come to an immediate halt.
- The Joinery managed to get seventeen of these jobs completed through other arrangements and builders.
- We genuinely wanted to try and find solutions for the eighteen jobs to have them completed and deliver the best outcome for our clients. There was also a lot of stress put on the ongoing employment of seventeen full-time joinery staff.
- Our initial thought on an option for Peter and Elizabeth was to assist them to complete the job as an owner-builder. We did offer this suggestion to them. They declined.
- Our next option was to help them engage another builder. We were scheduled to meet with them on 29 March and our intention was to discuss this option with them. They cancelled this meeting, initially saying Peter was delayed. Subsequently, it became evident that he was actually at the Dept. of Fair Trading.

- **They say you proposed they do the project as owner-builders, which was a commitment beyond their ability. Do you think this was a reasonable proposal and did other clients accept it?**

- This question has been addressed above.

- **Peter and Elizabeth have asked for you to declare your company insolvent/liquid so they can access their insurance – could you do that? If not why not?**

- At the time of this request from Peter and Elizabeth, there were other suitable options to deliver their project. The Joinery had the seventeen other clients, commercial commitments with other companies and commitments to its seventeen full-time staff to consider who would have been disadvantaged by that action.

- Where I have had to accept the voluntary liquidation of another company, I feel the liquidation of Prestige Design Joinery is a direct result of the actions of the Dept. of Fair Trading.

- **Do you believe you owe the couple money?**

- No, but that does not mean I don't feel terrible for their predicament. To that end, I have been working with them to reach the best possible outcome. At one point, they gave notice to cancel the contract they had with the Joinery. We advised them to seek advice on this before doing so. They did so and withdrew the cancellation. If they had gone ahead with it, they would most likely be in a worse position than they are currently. By giving them this advice, I have knowingly disadvantaged myself to give them every opportunity for the best available outcome.

- **Do you still owe money to workers and sub contractors?**

- Prestige Design Joinery doesn't owe money to any workers, sub-contractors or suppliers. The company placed in liquidation earlier, a company of 20 years' standing, does have creditors. They include me. These are being managed by the appointed liquidator. Prestige Design Joinery is a separate entity to that company.

- **How do you feel about what has happened?**

- I am personally and professionally shattered. I feel terrible for everyone involved and have been doing all I can to find the best available option for all of those involved. I built these companies for decades, and have been facing harassment online that has hindered my ongoing efforts to seek whatever results can be salvaged for suppliers, staff and clients.